

REMARKS

Claims 1-36 are pending in the application.

Claims 1-36 have been rejected.

Claims 1, 13, 23, and 28 have been amended.

Rejection of Claims under 35 U.S.C. § 101

Claims 13-22 and 34 stand rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter. Applicants respectfully traverse this rejection. Applicants have amended independent Claim 13 to recite “a hardware storage means for storing said database” (*emphasis added*), which is clearly statutory subject matter (e.g., process, machine, manufacture, or composition of matter) within the meaning of 35 U.S.C. § 101. Support for the amendment can be found in at least paragraphs [0044]-[0045] and Figure 7 of the present Specification. Thus, in light of this amendment, independent Claim 13 and dependent Claims 14-22 and 24 now recite patentable subject matter. Applicants respectfully request that the rejection be withdrawn.

Rejection of Claims under 35 U.S.C. § 103(a)

Claims 1-36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 7,133,884 issued to Murley et al. (“Murley”) further in view of U.S. Patent Pub. 20050021487 issued to Verma et al. (“Verma”). While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, Applicants have chosen to respectfully disagree and traverse the rejection as follows. Applicants reserve the right, for example, in the continuing application, to establish that the cited features, or

other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed.

Page 27 of the Final Office Action (“Response to Arguments” section) appears to analogize Murley’s current snapshot to the claimed “speculative structure of said database” of the independent claims. Applicants do not concede such an assertion, but have amended the claims in the interest of progressing prosecution. Applicants have amended independent Claims 1, 13, 23, and 28 to recite “an actual structure of said database is unknown when said determining is performed.” Support for the amendments can be found in at least paragraph [0033] of the present Specification. Nothing in the Murley and Verma, taken alone or in any permissible combination, discloses (or renders obvious) “an actual structure of said database is unknown when said determining is performed,” as recited in the independent claims, because knowledge of the structure of a database is essential for the operation of Murley and Verma, taken alone or in any permissible combination.

In fact, one with skill in the art would not even expect Murley and Verma, taken alone or in any permissible combination, to disclose (or render obvious) the recited element of the independent claims because a critical element of both Murley and Verma involves prior knowledge about the structure of their respective databases. Murley discloses “a consistent copy is created by starting with a current snapshot of the target database objects and selectively removing updates from it back to a user specified arbitrary point-in-time.” Abstract, Murley. However, in order to create Murley’s consistent copy, a current snapshot is required. Murley’s current snapshot is created by generating a copy of the state of one or more source database objects at a particular point-

in-time. Col. 2, lines 45-57 of Murley. Thus, the structure of the source database objects is necessarily known for the generation of such a current snapshot.

Turning now to Verma, the resource managers as disclosed in Verma maintain “a set of metadata associated with the resources (e.g., files) that are contained within its scope.” Paragraph [0036] of Verma. Thus, the resource managers must be aware of the structure of the database in order to maintain such metadata.

Thus, Murley and Verma, taken alone or in any permissible combination do not disclose (or render obvious) each and every element of independent Claims 1, 13, 23, and 28. Independent Claims 1, 13, 23, and 28, and all claims dependent therefrom are thus patentable over Murley and Verma, taken alone or in any permissible combination. Therefore, Applicants respectfully request that the rejection be withdrawn.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to Deposit Account 502306.

Respectfully submitted,

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